

**DETAILED ACTION**

*Status of Claims*

1. This action is responsive to BPAI decision dated May 7, 2008, where the previous rejection was reversed.

**EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Eamon Wall (reg 39414) on 10/8/2008.

The application has been amended as follows:

**Claim 17 (Amended):** A ~~computer readable medium~~ storage device storing...

*Allowable Subject Matter*

3. Claims 1-3,7-10,12-23 are allowed.
4. The following is an examiner's statement of reasons for allowance: Applicants invention of enabling selection of an optimal path, is found to be patentable. Prior art references found to be pertinent to Applicants disclosure (such as Patent Numbers: 6,963,927 6,577,604, 5,600,638, 5,119,367 (see attached 892 form)), either only teach minor aspects of the

invention or only teach the general environment of the invention. The collective prior art, either singly or in combination, do not teach the claim limitations.

The primary reasons for allowance is the particular novel feature of the invention of determining a first circuit path between source and destination nodes, the path comprises a plurality of nodes interconnected by links and each of the links have a plurality of facilities. Each of the facilities have associated with them a respective bandwidth utilization level, and any facility having its utilization level exceeding a first threshold is not used in defining the first circuit path.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMY M. OSMAN whose telephone number is (571)272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/  
Examiner, Art Unit 2457

October 8, 2008